

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Procedure for Determining Public Convenience or Necessity for
Alcoholic Beverage License Applications

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Purpose

To establish criteria and a procedure for making determinations of public convenience or necessity for alcoholic beverage license applications consistent with the requirements of Section 23958.4 of the State Business and Professions Code.

Background

In 1994, the Legislature added Section 23958.4 to the State Business and Professions Code which provides that cities and counties review certain alcoholic beverage license applications in areas having an "undue concentration" of such beverage licenses. Local jurisdictions are to determine whether public convenience or necessity would be served by the issuance of these licenses and inform the Department of Alcoholic Beverage Control.

Policy

It is the policy of the Board of Supervisors that the Director of the Department of Planning and Land Use or, upon appeal, the Planning Commission, shall determine public convenience or necessity for alcoholic beverage license applications. The following criteria and procedure shall be used in making such determinations:

Criteria:

1. The Sheriff's Department has determined that approval, or conditional approval, of the proposed retail outlet will not negatively influence the rate of criminal activity in the neighborhood. In making this determination, the Sheriff has considered factors such as the incidence of:

- a. Loitering and vandalism.
- b. Public drinking and drunkenness.
- c. Illegal drug usage and sales.
- d. Theft and violent behavior.

2. The County has determined that the proposed retail outlet is compatible with neighborhood character and would be of benefit to the neighborhood. In making this determination, the Planning Director or the Planning Commission has considered factors such as:

- a. Proximity and number of other retail outlets selling alcohol.
- b. Proximity of the retail outlet to schools, playgrounds, and other facilities serving young people.

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- c. Proximity of the retail outlet to residential neighborhoods.
- d. Whether the retail outlet provides: (1) a wide range of desirable goods and services; or (2) a unique type of goods or services.

3. The Planning Director has verified that the establishment for which the alcoholic beverage license is requested has no Building Code or Health Code violations of record, and is permitted by the applicable use regulations of the County Zoning Ordinance.

Procedure

1. The applicant shall file with the Department of Planning and Land Use: a) the application form from the Department of Alcoholic Beverage Control; b) the County application form and fee; and c) a statement as to why the license application should qualify for a determination of public convenience or necessity.
2. A copy of the application shall be sent to the Sheriff's Department for comment. The Sheriff's response to the Department of Planning and Land Use will include their determination as to whether the application will negatively influence the rate of criminal activity in the neighborhood.
3. A copy of the application shall also be sent to the applicable planning or sponsor group and to the Health Department. The group shall have 30 days to provide a recommendation (optional) with regard to compliance of the application with Policy Criterion #2 concerning neighborhood compatibility.
4. The Department of Planning and Land Use shall verify that the establishment requesting the license has no Building or Health Code violations of record and conforms to the applicable Zoning Ordinance use regulations. A site visit may be made.
5. The Planning Director shall make a decision as to whether a determination of public convenience or necessity can be made based on the criteria above. This decision shall be made within 35 days of the date of filing of a complete application unless a written request for postponement has been received from the applicant.
6. The Planning Director's decision shall be transmitted in writing to the Department of Alcoholic Beverage Control, the applicant, and the planning or sponsor group.
7. The decision of the Planning Director may, within ten days of the date of that decision, be appealed in writing by the applicant or the planning or sponsor group to the Planning Commission. An applicant shall pay the appeal fee specified by the County Administrative Code.

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8. When the appeal is received by the Department of Planning and Land Use, the Secretary of the Planning Commission shall schedule the matter for next available Planning Commission meeting. The Director shall provide the Planning Commission with a written brief on the matter and the written appeal.

9. The Planning Commission shall consider the matter and render a decision regarding the determination of public convenience or necessity. The decision of the Planning Commission shall be final.

10. The decision of the Planning Commission shall be transmitted in writing to the Department of Alcoholic Beverage Control and to the license applicant.

11. The Department of Planning and Land Use will take no further action concerning a license application. However, a planning or sponsor group shall not be prevented by this Policy from appealing directly to the Department of Alcoholic Beverage Control following a Planning Commission decision.

Sunset Date

This Policy will be reviewed for continuance by December 31, 2003.

Board Action

5/15/96 (4)

CAO Reference

1. Department of Planning and Land Use
2. Sheriff's Department
3. Department of Health Services